

Appl. No. 09/727,174  
Amdt. dated July 15, 2004  
Reply to Office action of April 15, 2004

### REMARKS/ARGUMENTS

This Amendment is intended to be a complete response to the Office Action of April 15, 2004 and the case is believed to be in condition for allowance. Accordingly, reconsideration is respectfully requested.

#### Status of the Claims

Claims 32-37, 41-42, 44-53 are pending in the application. Claims 32-36 stand allowed in the Office action. Claims 37, 41, 42, 44-53 were rejected in the Office Action.

#### The Claims

##### 35 USC 103

Claims 37, and 46-53 were rejected under 35 USC 103(a) as unpatentable over Shinagawa et al. (Japanese Patent Number 01280889A) in view of Kawan (U.S. Patent Number 5,796,832), and further in view of Kusakabe et al (U.S. Patent Number: 6,662,286). Applicants traverse the rejection.

Claim 37 recites the elements of "means configured to communicate in an asynchronous manner to a smart card terminal; means operable to use the means configured to communicate in an asynchronous manner to request resources selected from the set including terminal resources, host resources, and network resources; and means operable to receive a polling packet from the terminal and in response to receiving a polling packet, operable to transmit an indication that smart card desires to transmit data to the terminal."

All three references fail to teach or suggest these elements. Accordingly, even the proposed combination would not be a teaching or suggestion of Applicants' claimed invention.

Consider the first element "means configured to communicate in an asynchronous manner to a smart card terminal". There is no suggestion in Shinagawa, Kawan or Kusakabe to perform asynchronous communication with a smart card terminal. The Examiner asserts that Shinagawa teaches a smart card with

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means to communicate in an asynchronous manner to a smart card terminal and cites Shinagawa, page 6, lines 22-27 for that proposition. However, in the entire disclosure of Shinagawa there is no mention of asynchronous communication. The cited passage discusses transmitting mode information between the IC card 2 and the host computer 1 to set their respective mode as a master or slave. On the contrary, in Shinagawa either the IC card or the host computer is master and the other slave at any given time. The master/slave relationship implies that the slave only communicates when asked to do so by the master. In Shinagawa, if the current slave wishes to change mode, it communicates that in its response message ("whereby information can be transmitted while using the IC card as a master and the information processor as a slave by transmitting status information used to set the other unit, that is, the information processor, as a slave along with transmitted information when the IC card is to be used as a master" (Page 4, lines 5-8) and "When the information processor is used as a master, mode information used to set the IC card as a slave should be transmitted along with the transmitted information" (Page 4, lines 10-12)).

Thus, Shinagawa, contrary to the Examiner's assertion, does not teach or suggest "means configured to communication in an asynchronous manner to a smart card terminal." The other references are also silent as to such an element.

Now consider the third element of Claim 37: "means operable to receive a polling packet from the terminal and in response to receiving a polling packet, operable to transmit an indication that the smart card desires to transmit data to the terminal." The Examiner has conceded that Shinagawa does not teach such an element. Kawan and Kusakabe also fails to teach "polling ... operable to transmit an indication that the smart card desires to transmit data to the terminal." The Examiner has made the assertion that Kusakabe teaches that element. It should go without saying that in an obviousness analysis one must consider the entire claim and therefore each claim element in its entirety. The word "polling" only occurs once in the entire Kusakabe reference. In that sentence (Col. 12, lines 4-6) Kusakabe states "when the R/W1 performs, polling, the IC card 2 sends back version numbers of these two keys (the common key and the provider key). Sending back version numbers cannot be deemed a teaching of "operable to transmit an indication that smart card desires to transmit data to the terminal"?

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For these reasons, the proposed combination of Shinagawa, Kawan and Kusakabe fails to teach or suggest the invention recited in Claim 37 which claim should therefore be allowed.

Claim 41 stands rejected under 35 USC 103(a) over Shinagawa, Kawan, Kusakabe in view of Gopal (U.S. Pat. No. 5,889,963). Applicants traverse the rejection.

As argued above, the three former references do not teach or suggest the invention recited in Claim 37 whether taken in combination or singly. Gopal also does not teach or suggest this invention.

Gopal, like Shinagawa, Kawan, and Kusakabe does not teach or suggest "means configured to communicate in an asynchronous manner to a smart card terminal." In fact, Gopal does not even teach communication of any form between a smart card and a smart card terminal. While Gopal does mention polling, Gopal does not teach or suggest "means operable to receive a polling packet from the terminal and in response to receiving a polling packet, operable to transmit an indication that the smart card desires to transmit data to the terminal" (Claim 37). Gopal does poll stations in a CATV network. However, "the hub sends the control pool ... which allows the user to respond with a request for modification (e.g., less frequent polls and reduced response size allocation)" (Gopal, Col. 3, lines 32-36). Polling to obtain parameters from other nodes (Gopal) cannot be deemed a teaching of polling to receive "an indication that the smart card desires to transmit data to the terminal" (Claim 37). Thus, Gopal does not teach or suggest this element of Claim 37.

For these reasons Claim 37 is not obvious over Shinagawa, Kawan, Kusakabe and Gopal taken singly or in any combination.

Claim 42 as amended recites "the terminal having a means for simulating asynchronous communication with the smart card by transmitting a polling packet to the smart card requesting an indication of whether the smart card desires to transmit data to the terminal". As argued above in support of Claim 37, the references, singly or in combination, do not teach or suggest asynchronous communication.

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Furthermore, none of the references teach or suggest "transmitting a polling packet to the smart requesting an indication of whether the smart card desires to transmit data to the terminal." The teaching of Kusakabe specifies that in response to the polling of the R/W 1, the IC card sends back version numbers (Col 12, lines 4-6). From that, it can be inferred that the polling is a request for such version numbers and not a request of "an indication of whether the smart card desires to transmit data to the terminal". For that reason, it cannot be deemed that Kusakabe teaches the recited claim element.

The Examiner rejected dependent claims 44 and 45 over the combination of Shinagawa, Kusakabe and Gopal. As noted above in support of Claim 37, Gopal does not teach or suggest either "simulating asynchronous communication with the smart card" (not surprising since Gopal teaches a system for communication in a CATV network) and does not teach or suggest "transmitting a polling packet to the smart card requesting an indication of whether the smart card desires to transmit data to the terminal" (Claim 42). As argued above, Gopal's polling is for a different response and cannot be deemed a teaching of this latter element of Claim 42.

For these reasons, Claim 42 is not obvious over Shinagawa, Kusakabe, and Gopal, taken singly or in any combination and should be allowed.

The other pending claims in the application depend from Claims 37 and 42, respectively, provide further unique and non-obvious combinations, and are patentable for the same reasons given in support of their respective base claims and by virtue of such combinations and should be allowed.

#### Allowable Subject Matter

Applicants thank the Examiner for indicating that Claims 32-36 are allowed.

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### CONCLUSION

It is submitted that all of the claims now in the application are allowable. Applicants respectfully request reconsideration of the application and claims and its early allowance. If the Examiner believes that the prosecution of the application would be facilitated by a telephonic interview, Applicants invite the Examiner to contact the undersigned at the number given below.

No fees are believed to be due in connection with this Response.

Applicants respectfully request that a timely Notice of Allowance be issued in this application.

Respectfully submitted,



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Date: July 15, 2004

Enclosures:

1. Facsimile Transmittal Sheet (1 page)
2. Transmittal Form (1 page)
3. Certificate of Transmission by Facsimile (1 page)
4. Amendment Transmittal Form and duplicate copy of page 2 (3 pages)

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